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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/807,282   | 03/24/2004  | Bruce C.S. Chou      | 3722-0184PUS1       | 3938             |
| 2292   | 7590        | 05/01/2006           | EXAMINER            |                  |
| BIRCH STEWART KOLASCH & BIRCH<br>PO BOX 747<br>FALLS CHURCH, VA 22040-0747 |             |                      | TRAN, HUAN HUU      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |

2861

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/807,282

Applicant(s)

CHOU, BRUCE C.S.

Examiner

Huan H. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-29 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of species II, illustrated in Fig. 7, claims 13-29, in the reply filed on 04/17/06 is acknowledged. The traversal is on the ground(s) that there is no serious burden on the Examiner to consider all the claims in the application, and that generic claim 1 should be in condition for allowance. This is not found persuasive because: (a) contrary to the statement made in the response to the restriction requirement that at least claim 1 is generic, there is no generic claim (see definition given in MPEP 806.04(d)) as set forth in the restriction requirement and that the statement made that claim 1 is generic is a mere statement of conclusion which is not supported by any convincing fact or argument; (b) the statement made that there is no serious burden is also conclusionary in nature without any supporting evidence.

It is noted that while the controlling rule 37 CFR 1.141 allows more than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims in one national application, the rule requires that the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form (§ 1.75) or otherwise include all the limitations of the generic claim. There is no generic claim presented in the instant application.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 04/17/06.

### ***Allowable Subject Matter***

3. Claims 13-29 are allowed.

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4. The following is a statement of reasons for the indication of allowable subject matter: As to independent claim 13 and dependent claims thereof, prior art do not teach or suggest a thermal printing device having the limitation "a substrate having a surface formed with a plurality of grooves; a plurality of microheaters suspended above the grooves, respectively; and a covering structure arranged on the substrate and above the microheaters with a gap left between each of the microheaters and the covering structure"

As to independent claim 21 and dependent claims thereof, prior art of record do not teach or suggest the claimed method of manufacturing the claimed thermal printing device.

5. This application is in condition for allowance except for the presence of claims 1-12 directed to an invention non-elected with traverse in the reply filed on 04/17/06. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

### ***Conclusion***


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP 61-283570 to Tsuruoka et al. discloses a printing head having heaters (1) suspended over grooves (5) formed in a substrate (3). See Fig. 1. Tsuruoka does not teach the equivalent of the claimed limitation "a covering structure arranged on the substrate and above the microheaters with a gap left between each of the microheaters and the covering structure"

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huan H. Tran whose telephone number is (571) 272-2261. The examiner can normally be reached on at work on T-F from 6:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huan H. Tran  
Primary Examiner  
Art Unit 2861

hht  
04/25/06